

Alamogordo Daily News (NM)

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Sheriff's department lawsuit settled

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A lawsuit filed against the Otero County Sheriff's Department following immigration status checks in Chaparral last year has been settled.

Sheriff John Blansett expressed his satisfaction with the settlement Wednesday.

"We mediated this thing to a successful conclusion, which will be beneficial," he said. "Despite the settlement, it will not deter our efforts to fight border crime and the lawlessness that goes with it."

The suit was filed by five Chaparral families, the American Civil Liberties Union and the Mexican American Legal Defense and Educational Fund. The suit alleged sheriff's deputies raided homes in Chaparral in September without search warrants, interrogated families without evidence of criminal activity and targeted households on the basis of ethnicity.

In a news release issued Wednesday, ACLU and MALDEF stated the sheriff's department has agreed to new operational procedures as part of the settlement. The county also agreed to pay the families monetary damages and their attorneys' fees and court costs.

In return, the sheriff's department denies any wrongdoing and the suit is being dropped.

Whitney Potter, of the ACLU of New Mexico, said the amount being paid by the county is not being released, as part of the settlement agreement. ACLU-NM Executive Director Peter

Simonson said the ACLU doesn't normally keep settlement amounts secret, but because the sheriff's department was willing to adopt a new operations policy, the plaintiffs agreed to it.

Blansett said the sheriff's department played no part in deciding to pay the cash settlement, as that decision was handled by the county's risk management officers and attorneys.

The settlement was reached over several days after an April 3 settlement conference. A separate action brought by the Border Network goes into a settlement conference April 17.

Under the new operational procedure policy, the sheriff's department states that deputies "shall not stop, investigate, detain or question a person solely for the purpose of determining whether such a person is in the United States without authorization and proper documentation."

The new policy also notes that "a person's presence in the United States without proper documentation or authority ... is not a criminal violation. Therefore, a deputy may not initiate a criminal investigation based solely" on a person's immigration status.

Simonson noted that under federal law, entering the country without a visa is a civil violation roughly the equivalent of a traffic ticket.

It only becomes a criminal violation if the person falsely claims they have a visa, have a green card or are a U.S. citizen.

Under the new policy, deputies won't inquire into immigration status when conducting an investigation of a petty misdemeanor. In more serious cases, the sheriff's department agrees to inquire about immigration status only if the person's status is relevant to the investigation.

Investigations will be initiated only for reasons independent of any suspicions about the person's

immigration status, according to the new four-page policy. In addition, if a deputy obtains information "voluntarily, inadvertently or through a collateral source ... during any other criminal investigation or arrest of a suspect, the deputy may contact the appropriate federal law enforcement officials."

Incident reports from the sheriff's department's immigration sweeps indicate that in roughly half a dozen cases, deputies knocked on doors based on reports from other residents that illegal immigrants were living at certain locations, or that certain people were in the country illegally. In one incident report, Deputy Robert Hansen wrote that after he stopped one person on a traffic stop, "the citizen wanted to assist me by providing information about illegal immigrant activity." Hansen wrote that he asked the person to meet with him after the person dropped their friends off.

The person then rode with Hansen and pointed out houses where he alleged illegal immigrants lived or smuggling was taking place.

In another incident report, Hansen stated he received a complaint from a concerned citizen about illegal immigrants living at a certain address. Hansen wrote that he visited the address and "advised them of the complaint I received."

Simonson said, "It's precisely those kinds of activities that this (new) policy was constructed to avoid in the future."

The ACLU-NM executive director commended the Otero County Sheriff's Department for implementing what he called "a very progressive, very smart policy," adding "the sheriff's department really worked with us on this."

He said the policy should help to rebuild trust within the community, as Chaparral residents are less likely to report crimes if they believe deputies will use it as an excuse to try and determine

their status.

Sheriff Blansett said the new operational procedure policy is not as stringent as some might believe it to be, and expressed confidence that it will not hinder the department's efforts.

"We will pursue our goals to reduce crime in the Chaparral area," he said.

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